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August 8, 2022

VIA ECF

Honorable Gregory H. Woods
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 2260
New York, NY 10007

Re: *John Doe v. New York University*; No. 20-cv-01343 (GHW)

Dear Judge Woods:

I write on behalf of Defendant New York University (“Defendant” or “NYU”) in the above-captioned action regarding Plaintiff’s Memorandum of Law in Opposition to Defendant’s Motion for Summary Judgment (Dkt. No. 99) (the “Opposition”).

Plaintiff filed the Opposition on July 27, 2022. On August 4, 2022, undersigned counsel noticed that the Opposition—which was exactly 25 pages—was 1.75-spaced, rather than double-spaced as required by Local Civil Rule 11.1(b)(3). Accordingly, NYU emailed Plaintiff’s counsel that evening to inform them of the issue and request that counsel “advise by end of business tomorrow how you will correct this error.” (Ex. 1).

On Friday, Plaintiff’s counsel sent a three-page letter arguing that 1.75-spacing is double-spacing because it is “24-point spacing” which is “*exactly double* the 12-point font utilized.” (Ex. 2 at 3 (emphasis in original)). Plaintiff’s letter cites other jurisdictions and the website *Typography for Lawyers*, but ignores multiple opinions from the Southern District of New York that specifically hold “1.75-spaced” is *not* “double-spaced.” See, e.g., *CafeX Commc’ns, Inc. v. Amazon Web Servs.*, 1:17-cv-01349-VM-KNF, ECF No. 43 (S.D.N.Y. Mar. 30, 2017) (levying sanctions for filing brief in opposition to preliminary injunction with 24-point spacing); see also *Al-Ahmed v. Twitter, Inc.*, 553 F. Supp. 3d 118, 123 n.3 (S.D.N.Y. 2021) (admonishing counsel for same);

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Zuckerman v. GW Acquisition LLC, No. 20-CV-8742 (VEC), 2021 WL 4267815, at *3 n.2 (S.D.N.Y. Sept. 20, 2021) (same as to 1.81 spacing).

Plaintiff stated that he “will not file a replacement brief unless ordered by the Court,” and speculated “that if NYU submits this issue to the Court on a contested basis, Judge Woods’ reaction will be similar to that” of the District of Kansas, which granted the moving party an extension to make up the difference. (Ex. 2 at 1, 3). Plaintiff therefore suggested that NYU utilize 24-point spacing in its reply papers or seek an extension of the equivalent number of pages, to which Plaintiff would not object. (*Id.* at 3).

NYU advised Plaintiff that this offer was not acceptable because “(1) allowing additional lines per page in a 10-page brief is not the same as allowing additional lines per page in a 25-page brief, and (2) Plaintiff lacks authority to modify the Court’s rules.” (Ex. 3 at 2). NYU also noted that, as Judge Caproni observed in *Al-Ahmed v. Twitter, Inc.*, 553 F. Supp. 3d at 123 n.3, the explanation provided by Plaintiff’s counsel was “hard to credit” given that they have properly double-spaced many other filings in this Court, in other cases and this one. *See, e.g.*, Plaintiff’s Memorandum of Law in Opposition to Defendant’s Motion to Dismiss (Dkt. 37); Plaintiff’s Rule 56.1 Counter-Statement (Dkt. 96).

While we regret the need to bring this matter before the Court, it is clear based on the circumstances that Plaintiff’s counsel made “a deliberate choice” to “gain some slight advantage in this litigation” by flouting the Local Rules. *See CafeX Commc’ns*, ECF No. 43 at 1.¹ NYU should not be disadvantaged by such tactics and therefore respectfully requests that the Court strike Plaintiff’s Opposition, in whole or in part, or grant any other relief the Court deems just and proper.

Respectfully,



Jeffrey Metzler
Counsel for Defendant

cc: Kimberly C. Lau and James Figliozi (via CM/ECF)

¹ Plaintiff’s 25-page Opposition is approximately 2,800 words longer than NYU’s 25-page Memorandum of Law in Support of its Motion for Summary Judgment (Dkt. 87).